App. F. IX-4

Previous References.

1941. (C/5)

File No. 201-41

Serial Nos. 1-2

Later References.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. two only

Part B for March 42

SUBJECT.

Amendment of Rule 1 of Order XLII of the Code of Civil Procedure

Order No P 4231 of 12.3.42

To

The Registrar H.C.

Accords sanction to the request of the High Court

C G Vajravamni
21.4.42

9730

General and Revenue Secretariat | File No. 201 of 1941 | [App. F. III-2

MAR 4 1942
8770

Serial No. 1

From
The Registrar High Court
No Roc: 215 Dt 26.2.1942

Requests Sanction to amend Rule 1 Of ord XXII of the Code Of Civil procedure 1911 as suggested in the appended Statement to his letter.

Submitted with a draft Of a G.O. Sanctioning for approval or other orders

SECY. LAW DEPT. 1886 3 MAR 1942 GOVT. MYSORE

CPM 3/3

may be approved
Law Secy 3/3/42

Minister for Law. 3/3/42

Hm 2 4.3.42

3/3/42

Hm 2 6/3/42

Hm 3 6/3/42

2 Issued No 4231 Dt 12.3.42

B

NOTE—Cont. Sheet.

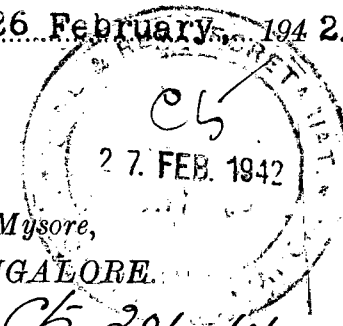
WD 04155—GPB—55,000—23-10-41

R. O. C. No. 215/41-42
~~D. Dis.~~
Enc: one

4730/641

HIGH COURT OF MYSORE,

Bangalore, 26 February 1942.



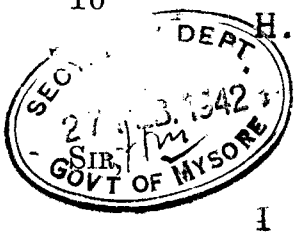
FROM

T. SHAMIENGAR, Esq., B.A., B.L.,
Registrar, High Court of Mysore,
BANGALORE.

C/S 201-41-

To

H. V. NARAYANA RAO, Esq., B.A., LL.B.,
Secretary to the Government of Mysore,
Law Department,
BANGALORE.



SIR,

I am directed to state that the High Court proposes to amend Rule 1 of Order XLII of the Code of Civil Procedure, 1911, as set out in the enclosure.

The rule, as it stands, read with rule 22 of Order XLI of the Code has been thought susceptible of the interpretation that a respondent in a second appeal can question a concurrent finding of fact, which an appellant cannot question by virtue of section 100 of the Code. The Judges of the High Court are of opinion that such an interpretation may lead to the injustice of giving a respondent in a second appeal an unfair advantage over the appellant and that rule 1 of Order XLII should be amended as proposed, so as to make such

an

an interpretation no longer possible.

The proposed rule, which was recommended by the Rule Committee, was published in the Mysore Gazette of 8 January 1942. No objection nor suggestion is received.

I am to request that the Government may be pleased to accord sanction to the proposed amendment under section 126 of the Code of Civil Procedure.

I have the honor to be,

Sir,

Your most obedient servant,

T. Srinivasaiya

REGISTRAR.

BG

BG
MSN.

Proposed amendment of Rule 1 of Order XLII of the Code of Civil Procedure:

Add the following proviso to Rule 1 of Order XLII of the CODE OF CIVIL PROCEDURE, 1911 :-

"Provided that in supporting an appellate decree no respondent shall be allowed to question a finding of fact other than a finding within the meaning of sub-section 1(d) of section 100."

J. Shanmugam

REGISTRAR.

BS

MSN.

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G. R. S. App. F VI—G 2]

SUBJECT .....

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Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the 193

Section. C5

File No. 201-41

Serial No. 2

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue 12/3/42 193 .

Signed by Sec. K.P.P.

Read—

Letter No RoC 215/41-42 Dt 26.2.1942 from the Registrar High Court of Mysore requesting Sanction to amend Rule 1 of order XLII of the Code of Civil Procedure ~~Order~~ thereon. ~~No.~~ 1911 as set out in the appended Statement

order P4231 Dt 12.3.42

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

Sanctioned

4.3.42

To
The Regr. High Court

Secy to Govt
Law Dept

Ex

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Read:-

Letter No.R.O.C. 215/41-42 dated 26th February 1942 from the Registrar, High Court of Mysore requesting sanction to amend Rule 1 of Order XLII of the Code of Civil Procedure, 1911 as set out in the appended statement.

Exec 1.

O R D E R No.P. 4231 CS-201-41-2

Dated, Bangalore, the 12th March 1942.

S a n c t i o n e d.

Secretary to Government,
Law Department.

To--The Registrar, High Court of Mysore.

TN-2)
S/GS.

'Amendment of Rule 1 of Order XLII of the Code of Civil Procedure.

Add the following proviso to Rule 1 of Order XLII of the CODE OF CIVIL PROCEDURE, 1911 :-

"Provided that in supporting an appellate decree no respondent shall be allowed to question a finding of fact other than a finding within the meaning of sub-section 1 (d) of Section 100."

For Secretary to Government.
Law Department.

TN-2)
6/3.